

114TH CONGRESS
2D SESSION

H. R. 6391

To amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to specify when bank holding companies may be subject to certain enhanced supervision, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2016

Mr. LUETKEMEYER introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to specify when bank holding companies may be subject to certain enhanced supervision, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Systemic Risk Des-
5 ignation Improvement Act of 2016”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for the Dodd-Frank Wall Street
8 Reform and Consumer Protection Act (12 U.S.C. 5301

1 et seq.) is amended by striking the item relating to section
 2 113 and inserting the following:

“Sec. 113. Authority to require enhanced supervision and regulation of certain
 nonbank financial companies and certain bank holding compa-
 nies.”.

3 **SEC. 3. REVISIONS TO COUNCIL AUTHORITY.**

4 (a) **PURPOSES AND DUTIES.**—Section 112 of the
 5 Dodd-Frank Wall Street Reform and Consumer Protec-
 6 tion Act (12 U.S.C. 5322) is amended in subsection
 7 (a)(2)(I) by inserting before the semicolon “, which have
 8 been the subject of a final determination under section
 9 113”.

10 (b) **BANK HOLDING COMPANY DESIGNATION.**—Sec-
 11 tion 113 of the Dodd-Frank Wall Street Reform and Con-
 12 sumer Protection Act (12 U.S.C. 5323) is amended—

13 (1) by amending the heading for such section to
 14 read as follows: “**AUTHORITY TO REQUIRE EN-**
 15 **HANCED SUPERVISION AND REGULATION OF**
 16 **CERTAIN NONBANK FINANCIAL COMPANIES**
 17 **AND CERTAIN BANK HOLDING COMPANIES**”;

18 (2) by redesignating subsections (c), (d), (e),
 19 (f), (g), (h), and (i) as subsections (d), (e), (f), (g),
 20 (h), (i), and (j), respectively;

21 (3) by inserting after subsection (b) the fol-
 22 lowing:

1 “(c) BANK HOLDING COMPANIES SUBJECT TO EN-
2 HANCED SUPERVISION AND PRUDENTIAL STANDARDS
3 UNDER SECTION 165.—

4 “(1) DETERMINATION.—The Council, on a non-
5 delegable basis and by a vote of not fewer than $\frac{2}{3}$
6 of the voting members then serving, including an af-
7 firmative vote by the Chairperson, may determine
8 that a bank holding company shall be subject to en-
9 hanced supervision and prudential standards by the
10 Board of Governors, in accordance with section 165,
11 if the Council determines, based on the consider-
12 ations in paragraph (2), that material financial dis-
13 tress at the bank holding company, or the nature,
14 scope, size, scale, concentration, interconnectedness,
15 or mix of the activities of the bank holding company,
16 could pose a threat to the financial stability of the
17 United States.

18 “(2) CONSIDERATIONS.—In making a deter-
19 mination under paragraph (1), the Council shall use
20 the indicator-based measurement approach estab-
21 lished by the Basel Committee on Banking Super-
22 vision to determine systemic importance, which con-
23 siders—

24 “(A) the size of the bank holding company;

1 “(B) the interconnectedness of the bank
2 holding company;

3 “(C) the extent of readily available sub-
4 stitutes or financial institution infrastructure
5 for the services of the bank holding company;

6 “(D) the global cross-jurisdictional activity
7 of the bank holding company; and

8 “(E) the complexity of the bank holding
9 company.

10 “(3) GSIBS DESIGNATED BY OPERATION OF
11 LAW.—Notwithstanding any other provision of this
12 subsection, a bank holding company that is des-
13 ignated, as of the date of enactment of this sub-
14 section, as a Global Systemically Important Bank by
15 the Financial Stability Board shall be deemed to
16 have been the subject of a final determination under
17 paragraph (1).”;

18 (4) in subsection (d), as so redesignated—

19 (A) in paragraph (1)(A), by striking “sub-
20 section (a)(2) or (b)(2)” and inserting “sub-
21 section (a)(2), (b)(2), or (c)(2)”; and

22 (B) in paragraph (4), by striking “Sub-
23 sections (d) through (h)” and inserting “Sub-
24 sections (e) through (i)”;

1 (5) in subsections (e), (f), (g), (h), (i), and
2 (j)—

3 (A) by striking “subsections (a) and (b)”
4 each place such term appears and inserting
5 “subsections (a), (b), and (c)”; and

6 (B) by striking “nonbank financial com-
7 pany” each place such term appears and insert-
8 ing “bank holding company for which there has
9 been a determination under subsection (c) or
10 nonbank financial company”;

11 (6) in subsection (g), as so redesignated, by
12 striking “subsection (e)” and inserting “subsection
13 (f)”;

14 (7) in subsection (h), as so redesignated, by
15 striking “subsection (a), (b), or (c)” and inserting
16 “subsection (a), (b), (c), or (d)”;

17 (8) in subsection (i), as so redesignated, by
18 striking “subsection (d)(2), (e)(3), or (f)(5)” and in-
19 serting “subsection (e)(2), (f)(3), or (g)(5)”.

20 (c) ENHANCED SUPERVISION.—Section 115 of the
21 Dodd-Frank Wall Street Reform and Consumer Protec-
22 tion Act (12 U.S.C. 5325) is amended—

23 (1) in subsection (a)(1), by striking “large,
24 interconnected bank holding companies” and insert-

1 ing “bank holding companies which have been the
2 subject of a final determination under section 113”;

3 (2) in subsection (a)(2)—

4 (A) in subparagraph (A), by striking “;
5 or” at the end and inserting a period;

6 (B) by striking “the Council may” and all
7 that follows through “differentiate” and insert-
8 ing “the Council may differentiate”; and

9 (C) by striking subparagraph (B); and

10 (3) in subsection (b)(3), by striking “sub-
11 sections (a) and (b) of section 113” each place such
12 term appears and inserting “subsections (a), (b),
13 and (c) of section 113”.

14 (d) REPORTS.—Section 116(a) of the Dodd-Frank
15 Wall Street Reform and Consumer Protection Act (12
16 U.S.C. 5326(a)) is amended by striking “with total con-
17 solidated assets of \$50,000,000,000 or greater” and in-
18 serting “which has been the subject of a final determina-
19 tion under section 113”.

20 (e) MITIGATION.—Section 121 of the Dodd-Frank
21 Wall Street Reform and Consumer Protection Act (12
22 U.S.C. 5331) is amended—

23 (1) in subsection (a), by striking “with total
24 consolidated assets of \$50,000,000,000 or more”

1 and inserting “which has been the subject of a final
2 determination under section 113”; and

3 (2) in subsection (c), by striking “subsection
4 (a) or (b) of section 113” and inserting “subsection
5 (a), (b), or (c) of section 113”.

6 (f) OFFICE OF FINANCIAL RESEARCH.—Section 155
7 of the Dodd-Frank Wall Street Reform and Consumer
8 Protection Act (12 U.S.C. 5345) is amended in subsection
9 (d) by striking “with total consolidated assets of
10 50,000,000,000 or greater” and inserting “which have
11 been the subject of a final determination under section
12 113”.

13 **SEC. 4. REVISIONS TO BOARD AUTHORITY.**

14 (a) ACQUISITIONS.—Section 163 of the Dodd-Frank
15 Wall Street Reform and Consumer Protection Act (12
16 U.S.C. 5363) is amended by striking “with total consoli-
17 dated assets equal to or greater than \$50,000,000,000”
18 each place such term appears and inserting “which has
19 been the subject of a final determination under section
20 113”.

21 (b) MANAGEMENT INTERLOCKS.—Section 164 of the
22 Dodd-Frank Wall Street Reform and Consumer Protec-
23 tion Act (12 U.S.C. 5364) is amended by striking “with
24 total consolidated assets equal to or greater than

1 \$50,000,000,000” and inserting “which has been the sub-
2 ject of a final determination under section 113”.

3 (c) ENHANCED SUPERVISION AND PRUDENTIAL
4 STANDARDS.—Section 165 of the Dodd-Frank Wall Street
5 Reform and Consumer Protection Act (12 U.S.C. 5365)
6 is amended—

7 (1) in subsection (a), by striking “with total
8 consolidated assets equal to or greater than
9 \$50,000,000,000” and inserting “which have been
10 the subject of a final determination under section
11 113”;

12 (2) in subsection (a)(2)—

13 (A) by striking “(A) IN GENERAL.—”; and

14 (B) by striking subparagraph (B);

15 (3) by striking “subsections (a) and (b) of sec-
16 tion 113” each place such term appears and insert-
17 ing “subsections (a), (b), and (c) of section 113”;
18 and

19 (4) in subsection (j), by striking “with total
20 consolidated assets equal to or greater than
21 \$50,000,000,000” and inserting “which has been
22 the subject of a final determination under section
23 113”.

24 (d) CONFORMING AMENDMENT.—The second sub-
25 section (s) (relating to “Assessments, Fees, and Other

1 Charges for Certain Companies”) of section 11 of the Fed-
2 eral Reserve Act (12 U.S.C. 248) is amended—

3 (1) by redesignating such subsection as sub-
4 section (t); and

5 (2) in paragraph (2)—

6 (A) in subparagraph (A), by striking “hav-
7 ing total consolidated assets of
8 \$50,000,000,000 or more;” and inserting
9 “which have been the subject of a final deter-
10 mination under section 113 of the Dodd-Frank
11 Wall Street Reform and Consumer Protection
12 Act; and”;

13 (B) by striking subparagraph (B); and

14 (C) by redesignating subparagraph (C) as
15 subparagraph (B).

16 **SEC. 5. EFFECTIVE DATE; RULE OF APPLICATION.**

17 (a) **EFFECTIVE DATE.**—The Financial Stability
18 Oversight Council may begin proceedings with respect to
19 a bank holding company under section 113(e)(1) of the
20 Dodd-Frank Wall Street Reform and Consumer Protec-
21 tion Act, as added by this Act, on the date of the enact-
22 ment of this Act, but may not make a final determination
23 under such section 113(e)(1) with respect to a bank hold-
24 ing company before the end of the 1-year period beginning
25 on the date of the enactment of this Act.

1 (b) IMMEDIATE APPLICATION TO LARGE BANK
2 HOLDING COMPANIES.—During the 1-year period de-
3 scribed under subsection (a), a bank holding company with
4 total consolidated assets equal to or greater than
5 \$50,000,000,000 shall be deemed to have been the subject
6 of a final determination under section 113(c)(1) of the
7 Dodd-Frank Wall Street Reform and Consumer Protec-
8 tion Act.

9 (c) RIGHT TO DETERMINATION.—A bank holding
10 company with total consolidated assets equal to or greater
11 than \$50,000,000,000 on the date of the enactment of this
12 Act may elect to be subject to a final determination under
13 section 113(c)(1) of the Dodd-Frank Wall Street Reform
14 and Consumer Protection Act by notifying the Financial
15 Stability Oversight Council of such election before the end
16 of the 1-year period described under subsection (a).

17 **SEC. 6. EXISTING ASSESSMENT TERMINATION SCHEDULE.**

18 (a) TEMPORARY EXTENSION OF EXISTING ASSESS-
19 MENT.—

20 (1) IN GENERAL.—Each bank holding company
21 with total consolidated assets equal to or greater
22 than \$50,000,000,000 and which has not been the
23 subject of a final determination under section 113 of
24 the Dodd-Frank Wall Street Reform and Consumer
25 Protection Act (12 U.S.C. 5323) shall be subject to

1 assessments to the same extent as a bank holding
2 company that has been subject to such a final deter-
3 mination.

4 (2) LIMITATION ON AMOUNT OF ASSESS-
5 MENTS.—The aggregate amount collected pursuant
6 to paragraph (1) from all bank holding companies
7 assessed under such paragraph shall be
8 \$115,000,000.

9 (3) EXPEDITED ASSESSMENTS.—If necessary,
10 the Secretary of the Treasury shall expedite assess-
11 ments made pursuant to paragraph (1) to ensure
12 that all \$115,000,000 of assessments permitted by
13 paragraph (2) is collected before fiscal year 2018.

14 (4) PAYMENT PERIOD OPTIONS.—The Secretary
15 of the Treasury shall offer the option of payments
16 spread out before the end of fiscal year 2018, or
17 shorter periods including the option of a one-time
18 payment, at the discretion of each bank holding
19 company paying assessments pursuant to paragraph
20 (1).

21 (b) USE OF ASSESSMENTS.—Of the total amount col-
22 lected pursuant to subsection (a)—

23 (1) \$60,000,000 shall be transferred to the Fi-
24 nancial Stability Oversight Council to pay for any

1 administrative costs resulting from this Act and the
2 amendments made by this Act; and

3 (2) \$55,000,000 shall be transferred to the
4 Federal Deposit Insurance Corporation to pay for
5 any resolution costs resulting from this Act and the
6 amendments made by this Act.

7 (c) TREATMENT UPON DETERMINATION.—A bank
8 holding company assessed under this section shall no
9 longer be subject to such assessments in the event it is
10 subject to a final determination under section 113 of the
11 Dodd-Frank Wall Street Reform and Consumer Protec-
12 tion Act (12 U.S.C. 5323). Any prior payments made by
13 such a banking holding company pursuant to an assess-
14 ment under this section shall be nonrefundable.

15 (d) RULE OF CONSTRUCTION.—A bank holding com-
16 pany deemed to have been the subject of a final determina-
17 tion under section 113 of the Dodd-Frank Wall Street Re-
18 form and Consumer Protection Act (12 U.S.C. 5323)
19 under section 5(b) shall not be subject to assessments
20 under subsection (a) solely by operation of section 5(b).

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